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SUBJECT: DOMINICAN BANKING SERIES #1: BANINTER CASE - WILL
IT GET PROSECUTED?

Classified By: DCM Lisa Kubiske. Reason: 1.4 (b) and (d).

11. (U) Following is the first in a series of reports on the Dominican banking sector.

(Begin Text)

BANINTER CASE -- WILL IT GET PROSECUTED?

(C) Dominican banking officials have been gratified by USG interest in the investigation of the case of "Ramoncito" Baez Figueroa's Baninter, which collapsed last April and left behind it bad debts of more than USD 2.1 billion. They and others remain deeply pessimistic that the Dominican judiciary will stay the course and obtain convictions of Baez and his colleagues. The best outcome, many Dominicans muse, would be for the United States to extradite the whole lot and try them in the United States.

(SBU) The Ambassador and embassy staff have discouraged such expectations and challenged Dominicans to demonstrate to a doubting public the firmness of their intentions. Even so, many remain convinced that the upcoming elections season will provide enough distraction for a deal to be struck by someone, somewhere.

(C) In early September, President Mejia passed to the Embassy six thick binders of Baninter material, including summary reports of the documented activities. That same week, at the conclusion of a working visit by Homeland Security (Customs) regional attache Bob Fuentes and Treasury's regional contractor David Chainer, the Monetary Board authorized Central Bank Governor Jose Lois Malkun to make a formal request for cooperation with their agencies. Informal exchanges have been cordial and effective since then; for example, on October 18-20 Central Bank contractor Jose Duarte and an emboff went to Miami to talk business with Homeland Security, with the law firm hired by the GODR to pursue asset recovery, and with the U.S. attorney's office.

(C) Central Bank Governor Lois Malkun and Banking Superintendent Julio Cross have been dogged in their pursuit of the Baninter case. They persist in the face of the lack of technical expertise to guide investigators, the obvious inexperience of the Dominican jurists in defining and proving a case, and the misgivings of those many individuals inside the government and out who accepted Baez's favors in the glory days. Ramoncito had his hooks into almost everyone.

(C) Embassy officers got to interview the Central Bank contractor who walked into the bank last May with nothing more than verbal instructions to begin the intervention, and we have spent a lot of time with lawyers and managers from the Bank superintendency. They tell us that the evidence of fraud is ample and undeniable. Even so, we are concerned to find that while lots of time is being spent combing through the files, not enough is being done by the Dominicans to track assets, to assure an air-tight case against the culprits, or to identify the sources of funds. An Amcit consultant we brought in with NAS funds for a two-week assessment in October confirmed this impression. Most of Baninter's physical assets have been sold off, but it appears that to date almost none of Baez's personal assets have been seized, even though the Money Laundering Law effective September 2002 provides for that possibility. The only significant exception is the "Listin Diario" newspaper, under government-appointed management since June.

The investigation

(SBU) Magistrate Eduardo Sanchez Ortiz was assigned by lot last June to investigate the case. The law provides in most cases for only 60-90 days of investigation; Sanchez Ortiz recently received his fifth 30-day extension, in recognition of his need to consult banking experts to make sense of the voluminous material from the bank, drawn not only from Baninter headquarters but also from 29 filing cabinets found tucked away in a distant warehouse. Almost all the records are still available and are stored in a location which the

experts refuse to name, even to us. Sanchez acknowledges being seriously challenged by the complexity of the task. We understand that one of his first sessions in May was a two-hour tutorial in double-entry bookkeeping. He subsequently received tutoring and extensive study materials on the 2002 Money Laundering Law. He recently attended a workshop given at the Judiciary School on the legal aspects of money laundering and complex fraud cases. In October the Supreme Court contracted an expert accountant with banking experience to work with Sanchez; he had requested two experts. Baez Figueroa's attorneys challenged the expert last week as potentially biased, since their client had fired the accountant's wife from Baninter.

(SBU) Appreciation of the fine art of accounting is essential in this case. For more than a decade Baez Figueroa and several close associates systematically ran overdrafts of client accounts and covered them up by creating phantom certificates of deposit (instruments that until very recently were not tracked or verified by the regulatory authorities). The complex scheme was tracked in specially created software which comprised a "covert" bank, reintegrated daily with open accounts but accessible during workhours only to Baez and his confederates.

(SBU) Presentation of the facts will be vital. Under Dominican procedure the case against the Bantiner crew will be judged exclusively on documents and observations delivered by Sanchez Ortiz to the sitting judge; there is no provision for the judge to obtain further evidence. If Sanchez Ortiz fails to file an adequate brief -- for whatever reason -- the case will be full of holes, making it all the more likely that Baez Figueroa and friends will go free.

"Ramoncito" Down and Out?

(C) Baez Figueroa became notorious in the late 90's for his flamboyant spending, high profile publicity campaigns and generous handouts to individuals, institutions and good causes. There appears to be no Dominican law prohibiting officials from accepting such donations. The bank collapse made a lot of people nervous, as they wondered how far prosecutions might extend. In contrast to that high lifestyle, Baez has been sitting in jail since last May, despite persistent rumors that his political connections and vast funds will get him sprung. President Mejia declared to the Ambassador earlier this month that Baez deserved to be in jail and would damn well stay there. Of the four bank officials originally arrested, only Baez and Marcel Baez Cocos remain in jail. Amcit Luis Alvarez Renta was freed in the first week of September to seek medical treatment -- which he promptly sought in Miami and Boston. Despite his attorney's pledges of good faith, Alvarez Renta remains in the United States. Vivian Lubrano, also released on medical grounds, is still in the Dominican Republic.

(C) Baninter is the grandest bank fraud and collapse in Dominican history, but other bank failures are likely to give rise to court cases. Dominicans are watching these cases with growing cynicism and with the expectation of being severely disappointed by their government and judiciary. Knowledgeable observers comment that the institutions to maintain, regulate and police the financial system here simply do not exist yet. President Mejia and his administration have done more than many expected, but the wily Baez has lots of resources -- and many speculate that in the current electoral climate, time is on his side. The matter-of-fact acceptance of corruption across Dominican society is a continuing sore. Much more must be done to strengthen investigations and to provide prosecution expertise, so as to demonstrate to the many bad guys, to complaisant officials and to the Dominican public that corruption can -- and should -- be detected and deterred.

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